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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

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9 Merrick Bank Corporation, as assignee of ) No. CV-08-02233-PHX-LOA  
the claims of Cardsystems Solutions, Inc., )  
10 Plaintiff, )  
11 vs. )  
12 Savvis, Inc., and Savvis Communications )  
13 Corporation, )  
14 Defendants. )  
15

**NOTICE OF ASSIGNMENT  
AND ORDER**

16 Pursuant to Local Rule ("LRCiv") 3.8(a), Rules of Practice, effective  
17 December 1, 2008, all civil cases are, and will be, randomly assigned to a U.S. district  
18 judge or to a U.S. magistrate judge. This matter has been assigned to the undersigned U.S.  
19 Magistrate Judge.

20 As a result of the aforesaid Local Rule, if all parties consent in writing, the  
21 case will remain with the assigned magistrate judge pursuant to 28 U.S.C. 636(c)(1) for  
22 all purposes, including trial and final entry of judgment. If any party chooses the district  
23 judge option, the case will be randomly reassigned to a U.S. district judge. To either  
24 consent to the assigned magistrate judge or to elect to have the case heard before a  
25 district judge, the appropriate section of the form, entitled Consent To Exercise Of  
26 Jurisdiction By United States Magistrate Judge<sup>1</sup>, must be completed, signed and filed.

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28 <sup>1</sup>The consent/election form may be obtained directly from the Clerk of the Court or  
by accessing the District of Arizona's web site at [www.azd.uscourts.gov](http://www.azd.uscourts.gov). To find the

1 The party filing the case or removing it to this Court is responsible for serving all parties  
2 with the consent forms. Each party must file a completed consent form and certificate of  
3 service with the Clerk of the Court not later than 20 days after entry of appearance, and  
4 must serve a copy by mail or hand delivery upon all parties of record in the case.

5 Any party is free to withhold consent to magistrate judge jurisdiction  
6 without adverse consequences. 28 U.S.C. 636(c)(2); Rule 73(b), Fed.R.Civ.P.; *Anderson*  
7 *v. Woodcreek Venture Ltd.*, 351 F.3d 911, 913-14 (9<sup>th</sup> Cir. 2003) (pointing out that  
8 consent is the "touchstone of magistrate judge jurisdiction" under 28 U.S.C. §636(c). "A  
9 party to a federal civil case has, subject to some exceptions, a constitutional right to  
10 proceed before an Article III judge." *Dixon v. Ylst*, 990 F.2d 478, 479 (9<sup>th</sup> Cir. 1993)  
11 (citing *Pacemaker Diagnostic Clinic of Am. Inc. v. Instromedix, Inc.*, 725 F.2d 537, 541  
12 (9<sup>th</sup> Cir. 1984) (*en banc*)).

13 A review of the Court's file indicates that U. S. District Judge E. Richard  
14 Webber granted Defendants' Motion to Dismiss, Transfer, or Stay Proceedings and  
15 transferred this case to the United States District Court for the District of Arizona,  
16 pursuant to 28 U.S.C. § 1404(a). (docket #11)

17 Defendants shall have until **December 31, 2008**, within which to make their  
18 selection to either consent to magistrate judge jurisdiction or elect to proceed before a  
19 U. S. district judge. The Court's docket reflects the appropriate consent form was  
20 electronically transmitted to all counsel on December 8, 2008 by the Clerk's office.

21 Accordingly,

22 **IT IS ORDERED** that the Defendants Savvis, Inc., and Savvis  
23 Communications Corporation shall file on or before **December 31, 2008** their written  
24 election to either consent to magistrate judge jurisdiction or elect to proceed before a  
25 United States district judge.

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27 consent/election form on the District's web site, click on "Local Rules" at the top of the page,  
then click on "forms" on the left side of the page and then click on and print the appropriate  
28 form.

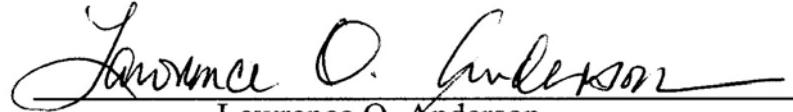
1           **IT IS FURTHER ORDERED** that Plaintiff shall either consent to proceed  
2 before a magistrate judge or elect to proceed before a district judge by **December 31,**  
3 **2008.**

4           **IT IS FURTHER ORDERED** that counsel and any party, if  
5 unrepresented, shall hereinafter comply with the Rules of Practice for the United States  
6 District Court for the District of Arizona, as amended on December 1, 2008. The  
7 District's Rules of Practice may be found on the District Court's internet web page at  
8 [www.azd.uscourts.gov/](http://www.azd.uscourts.gov/). All other rules may be found as [www.uscourts.gov/rules/](http://www.uscourts.gov/rules/).

9           **IT IS FURTHER ORDERED** that counsel and any party, if  
10 unrepresented, shall use the above caption, number and initials until further order of the  
11 Court.

12           **IT IS FURTHER ORDERED** that counsel shall use proper capitalization  
13 in all future captions as mandated by LRCiv 7.1(a)(3).

14           DATED this 10<sup>th</sup> day of December, 2008

15             
16           Lawrence O. Anderson  
17           United States Magistrate Judge

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